IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 63 OF 2007

FR. CRISTINO FERNANDES ... Appellant
Versus
SMT. MARCELINA MAXIE FERNANDES ... Respondents

Mr. Sudin M. S. Usgaonkar, Advocate for the appellant.
Mr. N. Costa Frias, Advocate for the respondent.

Coram:- R. S. MOHITE, J.

Date:- 18th October, 2007

P.C.

This appeal impugns an order dated 27.2.07 passed by the Civil Judge, Sr. Division, at Margao, rejecting a review application filed by the present appellant to review an order dated 10.11.06 which rejected an application of the appellant for removing the respondent as the Cabesa de Casal. The ground on which the removal was sought was that the Cabesa de Casal was not staying with the deceased. In fact she was the wife of the elder son of the deceased. In the application, as required by Article 1374 of the Portuguese Civil Code, it was not stated as to what evidence would be led to show that the Cabesa de Casal was not staying with the deceased. No document was referred to.

2. There was an additional contention of the appellant that the deceased was, in fact, staying with the appellant. It was not stated in the application as to what evidence in this regard would be led. No document was produced. The contentions in the application were denied by a reply dated 13.7.06 filed by the respondent.

3. On taking into account the material produced by the parties, the Civil Judge, Sr. Division, Margao passed an order dated 10.11.06 and

later on passed the impugned order, rejecting the application for review. A review was sought on the ground that the rejoinder could not be filed due to some difficulties. The proposed rejoinder is also not annexed to this appeal. No documents to prove the contentions raised in the original application are also produced before this Court. In view of this, no fault can be found with the impugned order. Appeal from order has no substance and is, therefore, rejected.

R. S. MOHITE, J.

ssm.